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7 NIELSEN CONSUMER LLC,
8 Plaintiff,
9 v.
10 LIVERAMP HOLDINGS, INC., et al.,
11 Defendants.

Case No. 24-cv-07355-SVK

**ORDER DENYING MOTION TO
TRANSFER**

Re: Dkt. No. 56

12 Plaintiff Nielsen Consumer LLC (“Nielsen”) accuses Defendants LiveRamp Holdings, Inc
13 and LiveRamp, Inc. (collectively, “LiveRamp”) of infringing two of its trademarks. Dkt. 1. (the
14 “Complaint”). This Court previously denied LiveRamp’s motion to dismiss the Complaint. Dkt.
15 53. Now before the Court is LiveRamp’s motion to transfer the case to the Northern District of
16 Illinois (the “Motion”). Dkt. 56 (“Mot.”). Nielsen opposes the Motion. Dkt. 60 (“Opp.”). At the
17 heart of the Parties’ dispute are two issues: (1) Nielson’s companion action against Circana, LLC
18 (“Circana”) in the Northern District of Illinois, alleging, *inter alia*, Circana’s infringement of the
19 same trademark; and (2) Circana’s relationship with LiveRamp. Mot. at 1-2, 5; Opp. at 2; *see*
20 *Nielsen Consumer LLC v. Circana, LLC*, No. 1:24-cv-10946 (N.D. Ill.) (the “Circana Action”).
21 The Motion came on for hearing on May 20, 2025. Having considered the Parties’ submissions
22 and oral arguments, the relevant law and the record in this action, the Court hereby **DENIES**
23 LiveRamp’s motion to transfer.¹

24
25 ¹ Nielsen also filed an Administrative Motion for Leave to File a Sur-Reply as to the Motion,
26 which LiveRamp opposes. Dkts. 66, 68-69. The Court agrees with LiveRamp that Nielsen’s sur-
27 reply merely seeks to distinguish case law cited by LiveRamp in its reply and that, while the case
28 law cited by LiveRamp was new, the argument was not. *See* Dkt. 69 at 1-2. Distinguishing case
law is not a proper use of a sur-reply under this District’s Local Rules, (*see* N.D. Cal. L.R. 7-
3(d)(1)-(2)), and, moreover, counsel for Nielsen had the opportunity to distinguish the cases
during oral argument. Accordingly, the Court **DENIES** the administrative motion.

1 **I. BACKGROUND**

2 The background of the Parties' dispute is set forth in this Court's prior order. *See* Dkt. 53
3 at 1-3. As before, the background herein is drawn from the allegations contained in the
4 Complaint, taken as true.² In short, Nielsen offers consumer-facing manufacturers and retailers
5 access to its "Label Insight" platform, "a product and service" comprised of "data and tools that
6 help [users] understand consumer behavior in their markets." *See* Compl., ¶¶ 22-23; Dkt. 55
7 ("Answer"), ¶¶ 22-23. Two trademarks relating to the "Label Insight" data platform (the "Label
8 Insight Marks") are at issue in this case. *See* Compl., ¶¶ 29, 32-33; Answer, ¶¶ 29, 32; *but see*
9 Answer, ¶ 33 (alleging that on February 3, 2025, Circana filed for cancellation of Nielsen's federal
10 Label Insight Mark, "which could result in revocation of the registration").

11 As relevant to the Motion, LiveRamp is a Delaware corporation with its principal place of
12 business in San Francisco, California. Compl., ¶¶ 17-18. "LiveRamp is a data connectivity
13 platform," essentially a middleman that "offers products and/or data from third-party companies"
14 to its customers "and then pays th[ose] third-party company[ies] for use of their data." *See*
15 Compl., ¶¶ 11, 13; Answer, ¶¶ 11, 13. One such third party is Circana. Compl., ¶ 12; Answer, ¶
16 12. Circana is a competitor of Nielsen in the market for data analytics, (*see* Compl., ¶ 38;
17 Answer, ¶ 38), and LiveRamp—for the purposes of the Motion—"collaborate[s]" with Circana "to
18 make Circana's deterministic data available within LiveRamp's data platform," (Compl., ¶ 12; *but*
19 *see* Answer, ¶ 12)³.

20 LiveRamp makes its data offerings, including those from Circana, available on its website,
21 which is available across the United States. *See* Compl., ¶ 12; Dkt. 62 ("Reply") at 5. The Parties

22 ² "In determining whether to grant a motion to transfer venue, 'uncontroverted allegations in [a]
23 plaintiff's complaint must be taken as true, and conflicts between the facts contained in the parties'
24 affidavits must be resolved in [the] plaintiff's favor.'" *All-Tex, Inc. v. Aramsco, Inc.*, No. 18-
cv00410-DSF (EX), 2018 WL 11473762, at *1 (C.D. Cal. Mar. 14, 2018) (quoting *Brayton
Purcell LLP v. Recordon & Recordon*, 606 F.3d 1124, 1129 (9th Cir. 2010), *abrogated on other
grounds, see Axiom Foods, Inc. v. Acerchem Int'l, Inc.*, 874 F.3d 1064, 1069 (9th Cir. 2017)
(explaining the impact of *Walden v. Fiore*, 571 U.S. 277 (2014))).

25 ³ LiveRamp pleads that its "website and Circana's press release speak[s] for themselves" and
26 "denies any allegations inconsistent with them," but LiveRamp does not otherwise deny the
27 Nielsen's allegation. Answer, ¶ 12. Given LiveRamp's reliance on paragraph 12 both in its brief
28 and at oral argument, the Court will treat this allegation as uncontested for the purpose of
resolving the motion to transfer. *See* Dkt. 62 at 3-5.

1 agree that LiveRamp and Circana also have a contractual relationship for the provision of data,
2 although the contract itself is not a part of the record in this action. Opp. at 7; Reply at 1, 5.
3 Further, according to allegations in the *Circana Action*, (*Circana Action*, Dkt. 31 (“*Circana Am.*
4 *Compl.*”)), Circana is a Delaware company with its principal place of business in Chicago,
5 Illinois. *Circana Am. Compl.*, ¶ 42.⁴

6 II. LEGAL STANDARD

7 “For the convenience of parties and witnesses, in the interest of justice, a district court may
8 transfer any civil action to any other district or division where it might have been brought.” 28
9 U.S.C. § 1404(a). “The Court’s transfer inquiry proceeds in two steps. First, the Court determines
10 ‘whether the transferee district was one in which the action might have been brought by the
11 plaintiff.’” *California v. Bureau of Land Mgmt.*, No. 18-cv-00521-HSG, 2018 WL 3439453, at *2
12 (N.D. Cal. July 17, 2018) (quoting *Hoffman v. Blaski*, 363 U.S. 335, 343-44 (1960)). Only if so,
13 “the Court conducts an individualized case-specific analysis of convenience and fairness.” *Id.*,
14 (citing *Stewart Org., Inc. v. Ricoh Corp.*, 487 U.S. 22, 29 (1988) (quotations omitted)).

15 As to the first step, a “transferee court must: (1) be able to exercise personal jurisdiction
16 over the defendants, (2) have subject matter jurisdiction over the claim, and (3) be a proper
17 forum.” *Albertson v. Monumental Life Ins. Co.*, No. 08-cv-05441-RMW, 2009 WL 3870301, at
18 *2 (N.D. Cal. Nov. 16, 2009) (citing *Hoffman*, 363 U.S. at 343-44). “The moving party bears the
19 burden of showing that jurisdiction and proper venue would exist in the district to which a transfer
20 is requested.” *Wireless Consumers All., Inc. v. T-Mobile USA, Inc.*, No. 03-cv-03711-MHP, 2003
21 WL 22387598, at *1 (N.D. Cal. Oct. 14, 2003).

22 III. DISCUSSION

23 The Parties focus their arguments on two issues: whether the Northern District of Illinois
24 would have had personal jurisdiction over LiveRamp, under step one; and the various case-
25 specific factors of convenience and fairness of step two. *See* Dkts. 56, 60, 62. As an initial
26 matter, the Court may deny the Motion if it finds any of the first step requirements (personal
27

28 ⁴ Neither Party disputes that Circana has its principal place of business in Illinois as pleaded by Nielsen in the *Circana Action*. The Court thus accepts this fact as uncontested.

1 jurisdiction, subject matter jurisdiction and venue) lacking. 28 U.S.C. § 1404(a). Additionally, if
2 any of these first step requirements are not met, the Court need not reach the second step of the
3 transfer inquiry. *See Hoffman*, 363 U.S. at 341–42 (1960). Accordingly, because the Court
4 determines that LiveRamp has failed to show that the Northern District of Illinois had personal
5 jurisdiction at the time suit was brought, the Court need not address any of the other issues raised
6 by the Parties.

7 Whether the case “might have been brought” in a particular district implicates the
8 personal-jurisdiction precedent of circuit into which a party seeks to transfer the case. *See* 28
9 U.S.C. § 1404(a); *see also, e.g., Shenzhen Aji Fashion Tech. Co. v. WhaleCo Inc.*, No. 23-cv-
10 14043, 2024 WL 2845974, at *3 (N.D. Ill. June 5, 2024) (citing both First and Seventh Circuit law
11 to determine whether the suit might have been brought in the District of Massachusetts). “Absent
12 a party’s consent to personal jurisdiction, a court must secure either general or specific
13 jurisdiction.” *Vanegas v. Signet Builders, Inc.*, 113 F.4th 718, 722 (7th Cir. 2024) (internal
14 citation omitted); *see also Ratha v. Phatthana Seafood Co.*, 35 F.4th 1159, 1170-71 (9th Cir.
15 2022). Here, the Parties do not dispute that the Northern District of Illinois does not have general
16 jurisdiction over LiveRamp. Reply at 3 n.2. As to specific jurisdiction, in the Seventh Circuit,
17 there are “three requirements for personal jurisdiction in th[e] [tort] context: (1) intentional
18 conduct (or ‘intentional and allegedly tortious conduct); (2) expressly aimed at the forum state;
19 (3) with the defendant’s knowledge that the effects would be felt—that is, the plaintiff would be
20 injured—in the forum state.” *Tamburo v. Dworkin*, 601 F.3d 693, 703 (7th Cir. 2010)
21 (“[e]xtracting these requirements from *Calder* [v. Jones, 465 U.S. 783 (1984)]...”); *accord*
22 *Pebble Beach Co. v. Caddy*, 453 F.3d 1151, 1156 (9th Cir. 2006) (deriving the same three factors,
23 phrased somewhat differently, from *Calder*).
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A. LiveRamp Cannot Satisfy Section 1404(a) by Consenting to Jurisdiction

LiveRamp first argues that personal jurisdiction is proper because it “is willing to consent to jurisdiction in the Northern District of Illinois to permit” this action and the *Circana* Action “to be consolidated.” Mot. at 2, 5. The Supreme Court squarely rejects this argument. “[T]he power of a District Court under [Section] 1404(a) to transfer an action to another district [does] not [depend] upon the wish or waiver of the defendant[;];” a defendant cannot waive jurisdiction or venue for the purpose of a Section 1404(a) transfer. *Hoffman*, 363 U.S. at 343-44. Accordingly, LiveRamp’s willingness to consent is insufficient.

B. The Northern District of Illinois Did Not have Specific Personal Jurisdiction Over LiveRamp

Turning to the three requirements extracted by the Seventh Circuit from *Calder*, LiveRamp fails to demonstrate that the Northern District of Illinois had personal jurisdiction over LiveRamp at the time the suit was brought. As for the first requirement, the Parties do not dispute that that LiveRamp’s alleged trademark infringement is “intentional and allegedly tortious.” *See, generally*, Opp. at 6-8; Reply at 3-5. Accordingly, this Court focuses on the second and third requirements.

1. LiveRamp’s Conduct Was Not Expressly Aimed at Illinois

LiveRamp points to two contacts that it contends show its conduct was expressly aimed at Illinois: (1) that it “offers its services across the United States, including Illinois, and [(2)] [that it] also has a contractual relationship with Circana – an Illinois resident.” Mot. at 5. Nielsen challenges that “neither offering services nationwide (presumably via the Internet), nor merely entering a contract with a company that happens to be headquartered in Illinois, is sufficient to confer specific jurisdiction,” citing both Seventh and Ninth Circuit authority. Opp. at 7-8. The Court agrees with Nielsen that neither contact, standing alone, is sufficient to show that LiveRamp expressly aimed its conduct at Illinois. *Matlin v. Spin Master Corp.*, 921 F.3d 701, 707 (7th Cir. 2019) (website: “If the defendant merely operates a highly interactive website, that is accessible from, but does not target, the forum state, then the defendant may not be haled into court in that state without offending the Constitution.” (cleaned up)); *Pebble Beach Co.*, 453 F.3d at 1156 (9th

1 Cir. 2006) (website: “Caddy’s actions were not expressly aimed at California [where the] only
2 acts identified by Pebble Beach as being directed at California are the website and the use of the
3 name ‘Pebble Beach’ in the domain name.”); *Citadel Grp. Ltd. v. Washington Reg’l Med. Ctr.*,
4 536 F.3d 757, 761 (7th Cir. 2008) (contract: “[A] contract between a state resident and an out-of-
5 state defendant alone does not automatically establish sufficient minimum contacts.”); *Picot v.*
6 *Weston*, 780 F.3d 1206, 1212 (9th Cir. 2015) (contract: “[A] contract alone does not automatically
7 establish minimum contacts in the plaintiff’s home forum.”).

8 In reply, LiveRamp neither distinguishes these cases nor argues that either contact,
9 standing alone, is sufficient. *See* Reply at 3-4. Rather, LiveRamp argues that it is “the
10 combination of those two [contacts], *i.e.*, the availability of a website in the forum state and the
11 existence of a contract with a party in the forum state” that is sufficient to confer personal
12 jurisdiction. Reply at 4-5 (internal quotation marks omitted). LiveRamp relies principally on a
13 recent case from the Northern District of Illinois: *Shenzhen Aji Fashion Tech. Co. v. WhaleCo*
14 *Inc.*, No. 23-cv-14043, 2024 WL 2845974, at *1 (N.D. Ill. June 5, 2024). However, as explained
15 below, *Shenzhen* is different in a number of ways from this case. The Court is not persuaded that,
16 under the circumstances of this case, the combination of LiveRamp’s website and its contract with
17 Circana is sufficient to satisfy personal jurisdiction.

18 In *Shenzhen*, defendant WhaleCo, Inc. (“WhaleCo”), “own[ed] and operate[d] the online
19 marketplace[] Temu.com,” with four other defendants being “individual online sellers operating
20 on Temu.com … (the ‘Store Defendants’).” *Shenzhen*, 2024 WL 2845974, at *1. WhaleCo was
21 based in Boston, Massachusetts, but the plaintiff originally brought suit in Illinois because the
22 Store Defendants, although based in China, had each shipped infringing products into Illinois. *Id.*
23 at *2. WhaleCo moved to transfer the case from Illinois to the District of Massachusetts. *Id.* at
24 *1. In determining that personal jurisdiction over the Store Defendants was satisfied in
25 Massachusetts, the court explained that

26 Store Defendants did not just create websites on their own initiative
27 that can be accessed in any location, they specifically entered into an
28 agreement with WhaleCo, a Massachusetts-based company, to sell
products throughout the United States, including for potential sale in
Massachusetts, using WhaleCo’s e-commerce platform. Further, the

1 Store Defendants did not contract with WhaleCo for a one time sale
2 of goods or services, but instead, according to Shenzhen's own
3 allegations, are engaged in an ongoing relationship with WhaleCo in
4 which **WhaleCo controls the media and images that appears on**
5 **the Store Defendants' product listings, sets the prices their**
6 **products are sold at, and decides where the products are sold.**
7 **WhaleCo and the Store Defendants are also, according to**
8 **Shenzhen, purportedly "acting in concert" to use Shenzhen's**
9 **trademark and copyrighted images to offer and sell clothing**
10 **products that infringe upon Shenzhen's intellectual property.**
11 **Thus, there is "something more" in this case than the mere**
12 **availability of a website or the mere existence of a contractual**
13 **relationship; there is an ongoing relationship with various**
14 **specific terms and conditions, and an ongoing alleged scheme of**
15 **copyright infringement.**

16 *Id.* at *5 (citations omitted; emphasis supplied). But there are a few key differences between this
17 case and *Shenzhen*.

18 Most significantly, the relationship between the defendants in *Shenzhen* was much closer
19 than between LiveRamp and Circana. WhaleCo controlled key aspects of Store Defendants'
20 websites; specifically, it determined media and images, set prices and decided where products
21 were sold. *Id.* In essence, WhaleCo—the Massachusetts-based company—controlled the Store
22 Defendant's alleged copyright infringement. Here, LiveRamp points to Nielsen's allegation that
23 "Circana and LiveRamp collaborate to make Circana's deterministic data available within
24 LiveRamp's data platform," (Reply at 5), but this single, general allegation of collaboration is a far
25 cry from the near-total control exerted by WhaleCo in *Shenzhen*. The Court is not persuaded that
26 the "collaborat[ion]" alleged here is sufficient to say that LiveRamp "expressly aimed" its conduct
27 at Illinois.

28 Furthermore, in *Shenzhen*, the defendant operating the online marketplace (WhaleCo) was
29 based in the target forum, and the question was whether the Store Defendants that "supply
30 WhaleCo with products for sale" could be sued in the same forum. *See id.* at *2. The situation
31 here is reversed: LiveRamp is the party that ultimately makes the product (data) available to
32 customers, and one of its suppliers (Circana) is headquartered in the target forum. *See Compl., ¶*
33 12; *Circana Am. Compl.*, ¶ 42. If LiveRamp's argument were correct, then, so long as the other
34 jurisdictional requirements were satisfied, *any* online retailer could be made to answer in the
35 courts of *any* state in which it had a supplier (and LiveRamp itself could be sued in any state in

1 which any of its data providers resided). This Court rejects the argument that merely having a
2 nationwide website means that conduct is “expressly aimed” at any states in which the defendant’s
3 supplier(s) reside. Nor has LiveRamp provided any evidence that it has any customers in Illinois
4 to whom it makes Circana’s data available.

5 Accordingly, this case is quite different from *Shenzhen*. Rather, this is a case where
6 LiveRamp operates a nationwide website and has a contract with its third-party data supplier,
7 Circana, who it just-so-happens is situated in Illinois. For specific personal jurisdiction to obtain,
8 “[t]he defendant’s contacts must not be merely random, fortuitous, or attenuated.” *Citadel Grp.*,
9 536 F.3d at 761; *Picot*, 780 F.3d 1206 at 1212 (“Merely random, fortuitous, or attenuated contacts
10 are not sufficient.” (internal quotation marks and citation omitted)). In this context, the Court does
11 not find that LiveRamp’s conduct was “expressly aimed” at Illinois.

12 **2. LiveRamp Has Not Shown It Knew That the Effects of its Conduct
13 Were Likely to be Felt—i.e., that Nielsen Would Be Injured—in Illinois**

14 The lack of “expressly aimed” conduct alone is sufficient to find a lack of personal
15 jurisdiction and so deny the Motion. *See Tamburo*, 601 F.3d 693 at 703; *Pebble Beach Co.*, 453
16 F.3d at 1156. Nonetheless, for the sake of completeness, this Court briefly addresses the third
17 requirement: that the “defendant [have] knowledge that the effects would be felt—that is, the
18 plaintiff would be injured—in the forum state.” *Tamburo*, 601 F.3d 693 at 703; *accord Pebble*
19 *Beach Co.*, 453 F.3d at 1156.

20 LiveRamp does not address this element in its briefs, although Nielsen argued in its
21 opposition that there was no evidence that “the contract was made with LiveRamp’s knowledge
22 that Nielsen[] would be harmed in Illinois... .” Opp. at 7. However, both Parties addressed the
23 issue during oral argument where LiveRamp argued that because Nielsen was a Chicago-based
24 company, LiveRamp knew that the effects of its deal with Circana would be felt by the plaintiff
25 (Nielsen) in Illinois. But while this may be apparent to LiveRamp now, Section 1404(a) is
26 backward looking. *See* 28 U.S.C. § 1404(a) (permitting transfer to any district where the action
27 “might have been brought” originally). While it is possible that, as LiveRamp argues, it made its
28 contract with Circana while knowing that Circana was a competitor of Nielsen and thus that

1 Nielsen would feel the effects of the (alleged) tort, neither the contract between LiveRamp and
2 Circana nor any affidavit providing evidence of the circumstances under which it was made is
3 before the Court. “The moving party bears the burden of showing that jurisdiction and proper
4 venue would exist in the district to which a transfer is requested.” *Wireless Consumers All.*, 2003
5 WL 22387598, at *1. The Court is not persuaded on these facts that LiveRamp has shown that it
6 knew that the effects of its conduct were likely to be felt by Nielsen in Illinois.

7 Accordingly, for this independent reason, the Northern District of Illinois lacked specific
8 personal jurisdiction over LiveRamp at the time Nielsen brought its lawsuit. Thus, this is an
9 independent reason to deny the motion to transfer.

10 **IV. CONCLUSION**

11 For the forgoing reasons, because LiveRamp’s allegedly tortious conduct was not
12 expressly aimed at Illinois and was not conducted with the knowledge that Nielsen was likely to
13 be injured in Illinois, this Court finds that the Northern District of Illinois lacked specific personal
14 jurisdiction over LiveRamp at the time Nielsen brought its lawsuit. Accordingly, because personal
15 jurisdiction is a threshold issue under 28 U.S.C. § 1404(a), without reaching the case-specific
16 analysis of convenience and fairness, the Court **DENIES** LiveRamp’s motion to transfer this case
17 to the Northern District of Illinois.

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19 **SO ORDERED.**

20 Dated: June 6, 2025

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23 SUSAN VAN KEULEN
24 United States Magistrate Judge
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